IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2411 of 1990

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MOHANBHAI DEBARBHAI

Versus

SANMUKHLAL CHANDRASANKER JOSHI

Appearance:

MR SHAILESH C PARIKH for Petitioner No. 1

MR VIJAY H PATEL for Respondents No. 1-3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 30/01/2002

ORAL JUDGEMENT

#. The petitioner challenges the judgment and order dated 18th December, 1989 passed by the learned Gujarat Revenue Tribunal (hereinafter referred to as 'the Tribunal') in Revision Application No.527/85.

#. The petitioner claims that he has been cultivating the land bearing Survey No.269 admeasuring 1-Acre and 37-Gunthas situated at Village Bhuchhad, Taluka Nandod, District Bharuch for over 50 years. The petitioner is a tribal and an illiterate person. The petitioner moved the Mamlatdar and A.L.T., Zaghadia for determination of the purchase price of the said land under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as 'the Act') and to grant instalments for payment of such sale price. The said application was registered as Tenancy Case No.82/83. The Mamlatdar, Nandod (to whom the powers and functions of Mamlatdar, Zaghadia were transferred), under his order dated 28th August, 1984, held that the petitioner was the tenant in the said land and determined the sale price at Rs.682=00. He also directed that the sum of Rs.82=20 shall be paid on 1st April, 1985 and the remaining amount shall be paid in six annual instalments of Rs.100=00 each. The said order was challenged by the respondents before the Deputy Collector, Rajpipla, in Tenancy Appeal No.22/84. The said Appeal was dismissed by the Deputy Collector, Rajpipla on 3rd May, 1985. Feeling aggrieved, the respondents preferred Revision Application No.527/85 before the Tribunal. The Tribunal, under its judgment and order dated 18th December, 1989, allowed the Revision Application and set aside the orders made by the authorities below. Feeling aggrieved, the petitioner has preferred the present petition.

#. Be it noted that the authorities below i.e. the Mamlatdar, Nandod and the Deputy Collector, Rajpipla have not recorded a clear finding that the petitioner was a tenant in the land in question for over 50 years as alleged, nor the said authorities have recorded a finding that the petitioner was cultivating the land as a tenant as on the tillers' day (i.e. 1st April, 1957) and that he was a deemed purchaser of the said land. The Tribunal has observed that in regular tenancy proceedings the petitioner was not proved to be a tenant. The question of determining the sale price under Section 32G of the Act, therefore, should not arise. It has been further observed that petitioner's name did not appear in the village record in the year 1956-57. The petitioner's name was first time entered in the village record in the year 1976-77. Considering the evidence on record, the learned Tribunal has held that, "all these things put together do not prove that the present opponents were holding the lands as tenants on the tillers' day. Whatever else may be the remedies available to the opponents, their case does not fall within the provisions

of Section 32G of the Act."

#. The learned advocate Mr.Parikh appearing for the petitioner has not been able to assail the finding recorded by the Tribunal. In that view of the matter, the petitioner has failed to establish that he was in possession of the said land and was cultivating the same in the year 1956-57 or that he has become the deemed purchaser as envisaged in Section 32 of the Act.

#. Hence, the petition is dismissed. Rule is discharged. Interim relief is vacated.

30th January, 2002. (Ms. R.M.Doshit, J.)

/sakkaf